

Ross	Serrano	Thompson (MS)
Rothman	Sherman	Tierney
Roybal-Allard	Skelton	Turner (TX)
Ruppersberger	Slaughter	Udall (CO)
Rush	Smith (WA)	Udall (NM)
Ryan (OH)	Snyder	Van Hollen
Sabo	Solis	Velázquez
Sánchez, Linda T.	Spratt	Visclosky
	Stark	Waters
Sanchez, Loretta	Stenholm	Watson
Sanders	Strickland	Watt
Sandlin	Stupak	Waxman
Schakowsky	Tanner	Weiner
Schiff	Tauscher	Woolsey
Scott (GA)	Taylor (MS)	Wu
Scott (VA)	Thompson (CA)	Wynn

NOT VOTING—19

Andrews	Forbes	Shays
Berman	Istook	Tauzin
Boucher	Leach	Towns
Brown, Corrine	Lewis (GA)	Wexler
DeMint	Lowe	Young (AK)
Deutsch	Oberstar	
Dunn	Rangel	

□ 1154

Mr. CAPUANO, Mrs. TAUSCHER, Mr. ROTHMAN, Mrs. JONES of Ohio, Ms. DEGETTE, and Mr. MORAN of Virginia changed their vote from “yea” to “nay.”

Mr. PETERSON of Pennsylvania changed his vote from “nay” to “yea.” So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. GEORGE MILLER of California. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. BASS). The Clerk will report the motion.

The Clerk read as follows:

Mr. George Miller of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2660 be instructed to insist on reporting an amendment to prohibit the Department of Labor from using funds under the Act to implement any portion of a regulation that would make any employee ineligible for overtime pay who would otherwise qualify for overtime pay under regulations under section 13 of the Fair Labor Standards Act in effect September 3, 2003, except that nothing in the amendment shall affect the increased salary requirements provided in such regulations as specified in section 541 of title 29 of the Code of Federal Regulations, as promulgated on April 23, 2004.

MOTION TO TABLE OFFERED BY MR. DELAY

Mr. DELAY. Mr. Speaker, I offer a preferential motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. DELAY moves that the motion to instruct be laid on the table.

PARLIAMENTARY INQUIRY

Mr. GEORGE MILLER of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEORGE MILLER of California. If a motion to table this motion on overtime pay prevails, will it have the effect of denying the Members any debate on this issue?

The SPEAKER pro tempore. As the Chair indicated in the same circumstances on May 12, 2004, if the motion to table were adopted, the motion of the gentleman from California would not be before the House.

Mr. GEORGE MILLER of California. Further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEORGE MILLER of California. Then to be clear, let me understand that this means that we will not have the hour of debate on the Department of Labor's efforts to deny millions of workers currently eligible for overtime from receiving overtime in the future?

The SPEAKER pro tempore. The motion of the gentleman from California will not be before the House.

The question is on the motion offered by the gentleman from Texas (Mr. DELAY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GEORGE MILLER of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on tabling the motion to instruct will be followed by a 5-minute vote on suspending the rules and passing H.R. 3722.

The vote was taken by electronic device, and there were—ayes 216, noes 199, not voting 18, as follows:

[Roll No. 181]

AYES—216

Aderholt	Castle	Gingrey
Akin	Chabot	Goode
Bachus	Chocola	Goodlatte
Baker	Coble	Goss
Ballenger	Cole	Granger
Barrett (SC)	Collins	Graves
Bartlett (MD)	Cox	Green (WI)
Barton (TX)	Crane	Greenwood
Bass	Crenshaw	Gutknecht
Beauprez	Cubin	Hall
Bereuter	Culberson	Harris
Biggett	Cunningham	Hart
Bilirakis	Davis, Jo Ann	Hastings (WA)
Bishop (UT)	Davis, Tom	Hayes
Blackburn	Deal (GA)	Hayworth
Blunt	DeLay	Hefley
Boehlert	Diaz-Balart, L.	Hensarling
Boehner	Diaz-Balart, M.	Hergert
Bonilla	Doolittle	Hobson
Bonner	Dreier	Hoekstra
Bono	Duncan	Hostettler
Boozman	Dunn	Houghton
Bradley (NH)	Ehlers	Hulshof
Brady (TX)	Emerson	Hunter
Brown (SC)	English	Hyde
Brown-Waite,	Everett	Isakson
Ginny	Feeney	Issa
Burgess	Ferguson	Jenkins
Burns	Flake	Johnson (CT)
Burr	Foley	Johnson, Sam
Burton (IN)	Fossella	Jones (NC)
Buyer	Frelinghuysen	Keller
Calvert	Gallely	Kelly
Camp	Garrett (NJ)	Kennedy (MN)
Cannon	Gerlach	King (IA)
Cantor	Gibbons	King (NY)
Capito	Gilchrest	Kingston
Carter	Gillmor	Kirk

Kline	Oxley	Shimkus
Knollenberg	Paul	Shuster
Kolbe	Pearce	Simmons
LaHood	Pence	Simpson
Latham	Petri	Smith (NJ)
LaTourette	Pickering	Smith (TX)
Lewis (CA)	Pitts	Souder
Lewis (KY)	Platts	Stearns
Linder	Pombo	Sullivan
LoBiondo	Porter	Sweeney
Lucas (OK)	Portman	Tancred
Manzullo	Pryce (OH)	Taylor (NC)
McCotter	Putnam	Terry
McCrery	Quinn	Thomas
McHugh	Radanovich	Thornberry
McInnis	Ramstad	Tiahrt
McKeon	Regula	Tiberi
Mica	Rehberg	Toomey
Miller (FL)	Renzi	Turner (OH)
Miller (MI)	Reynolds	Upton
Miller, Gary	Rogers (AL)	Vitter
Moran (KS)	Rogers (KY)	Walden (OR)
Murphy	Rogers (MI)	Walsh
Musgrave	Rohrabacher	Wamp
Myrick	Ros-Lehtinen	Weldon (FL)
Nethercutt	Royce	Weldon (PA)
Neugebauer	Ryan (WI)	Weller
Ney	Ryun (KS)	Whitfield
Northup	Saxton	Wicker
Norwood	Schrock	Wilson (NM)
Nunes	Sensenbrenner	Wilson (SC)
Nussle	Sessions	Wolf
Osborne	Shadegg	Young (FL)
Ose	Shaw	
Otter	Sherwood	

NOES—199

Abercrombie	Gephardt	Meek (FL)
Ackerman	Gonzalez	Meeks (NY)
Alexander	Gordon	Menendez
Allen	Green (TX)	Michaud
Baca	Grijalva	Millender-
Baird	Gutierrez	McDonald
Baldwin	Harman	Miller (NC)
Ballance	Hastings (FL)	Miller, George
Becerra	Hill	Mollohan
Bell	Hinchey	Moore
Berkley	Hinojosa	Moran (VA)
Berry	Hoeffel	Murtha
Bishop (GA)	Holden	Nadler
Bishop (NY)	Holt	Napolitano
Blumenauer	Honda	Neal (MA)
Boswell	Hooley (OR)	Obey
Boucher	Hoyer	Olver
Boyd	Inslee	Ortiz
Brady (PA)	Israel	Owens
Brown (OH)	Jackson (IL)	Pallone
Capps	Jackson-Lee	Pascrell
Capuano	(TX)	Pastor
Cardin	Jefferson	Payne
Cardoza	John	Pelosi
Carson (IN)	Johnson (IL)	Peterson (MN)
Carson (OK)	Johnson, E. B.	Pomeroy
Case	Jones (OH)	Price (NC)
Chandler	Kanjorski	Rahall
Clay	Kaptur	Reyes
Clyburn	Kennedy (RI)	Rodriguez
Conyers	Kildee	Ross
Cooper	Kilpatrick	Rothman
Costello	Kind	Roybal-Allard
Cramer	Kleccka	Ruppersberger
Crowley	Kucinich	Rush
Cummings	Lampson	Ryan (OH)
Davis (AL)	Langevin	Sabo
Davis (CA)	Lantos	Sánchez, Linda T.
Davis (FL)	Larsen (WA)	
Davis (IL)	Larson (CT)	Sanchez, Loretta
Davis (TN)	Lee	Sanders
DeFazio	Levin	Sandlin
DeGette	Lewis (GA)	Schakowsky
Delahunt	Lipinski	Schiff
DeLauro	Lofgren	Scott (GA)
Dicks	Lowey	Scott (VA)
Dingell	Lucas (KY)	Serrano
Doggett	Lynch	Sherman
Dooley (CA)	Majette	Skelton
Doyle	Maloney	Slaughter
Edwards	Markey	Smith (WA)
Emanuel	Marshall	Snyder
Engel	Matheson	Solis
Eshoo	Matsui	Spratt
Etheridge	McCarthy (MO)	Stark
Evans	McCarthy (NY)	Stenholm
Farr	McCollum	Strickland
Fattah	McDermott	Stupak
Filner	McGovern	Tanner
Ford	McIntyre	Tauscher
Frank (MA)	McNulty	Taylor (MS)
Frost	Meehan	Thompson (CA)

Thompson (MS) Velázquez
Tierney Visclosky
Turner (TX) Waters
Udall (CO) Watson
Udall (NM) Watt
Van Hollen Waxman

NOT VOTING—18

Andrews Franks (AZ) Shays
Berman Istook Smith (MI)
Brown, Corrine Leach Tauzin
DeMint Oberstar Towns
Deutsch Peterson (PA) Wexler
Forbes Rangel Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1214

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3722.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 3722, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 88, nays 331, not voting 14, as follows:

[Roll No. 182]

YEAS—88

Aderholt Goode Paul
Akin Goodlatte Pence
Bachus Gutknecht Pitts
Barrett (SC) Hall Platts
Bass Hayes Radanovich
Bereuter Hayworth Ramstad
Bishop (UT) Hefley Rehberg
Blackburn Hoekstra Rogers (AL)
Boozman Hostettler Rohrabacher
Boucher Hulshof Royce
Bradley (NH) Hunter Schrock
Burton (IN) Isakson Sensenbrenner
Buyer Jenkins Shimkus
Carter Johnson, Sam Shuster
Coble Jones (NC) Simpson
Collins Keller Smith (TX)
Cox Kelly Stearns
Culberson King (IA) Sullivan
Cunningham Kingston
Deal (GA) Kline Tancredo
Doolittle Manzullo Taylor (MS)
Duncan McCotter Taylor (NC)
Everett McCreery Toomey
Feeney Mica Vitter
Franks (AZ) Miller (FL) Wamp
Gallegly Miller, Gary Weldon (FL)
Garrett (NJ) Musgrave Whitfield
Gerlach Myrick Wicker
Gibbons Norwood Wilson (SC)
Gingrey Otter

NAYS—331

Abercrombie Ballance Berman
Ackerman Ballenger Berry
Alexander Bartlett (MD) Biggert
Allen Barton (TX) Bilirakis
Baca Beauprez Bishop (GA)
Baird Becerra Bishop (NY)
Baker Bell Blumenauer
Baldwin Berkley Blunt

Boehrlert Harris
Boehner Hart
Bonilla Hastings (FL)
Bonner Hastings (WA)
Bono Hensarling
Boswell Hill
Boyd Hinchey
Brady (PA) Hinojosa
Brady (TX) Hobson
Brown (OH) Hoeffel
Brown (SC) Holden
Brown-Waite, Holt
Ginny Honda
Burgess Hooley (OR)
Burns Houghton
Burr Hoyer
Calvert Hyde
Camp Inslee
Cannon Israel
Cantor Issa
Capito Jackson (IL)
Capps Jackson-Lee
Capuano (TX)
Cardin Jefferson
Cardoza John
Carson (IN) Johnson (CT)
Carson (OK) Johnson (IL)
Case Johnson, E. B.
Castle Jones (OH)
Chabot Kanjorski
Chandler Kaptur
Chocola Kennedy (MN)
Clay Kennedy (RI)
Clyburn Kildee
Cole Kilpatrick
Conyers Kind
Cooper King (NY)
Costello Kirk
Cramer Kleczka
Crane Knollenberg
Crenshaw Kolbe
Crowley Kucinich
Cubin LaHood
Cummings Lampson
Davis (AL) Langevin
Davis (CA) Lantos
Davis (FL) Larsen (WA)
Davis (IL) Larson (CT)
Davis (TN) Latham
Davis, Jo Ann LaTourette
Davis, Tom Lee
DeFazio Levin
DeGette Lewis (CA)
DeLauro Lewis (GA)
DeLay Lewis (KY)
Diaz-Balart, L. Linder
Diaz-Balart, M. Lipinski
Dicks LoBiondo
Dingell Lofgren
Doggett Lowey
Dooley (CA) Lucas (KY)
Doyle Lucas (OK)
Dreier Lynch
Dunn Majette
Edwards Maloney
Ehlers Markey
Emanuel Marshall
Emerson Matheson
Engel Matsui
English McCarthy (MO)
Eshoo McCarthy (NY)
Etheridge McCollum
Evans McDermott
Farr McGovern
Fattah McHugh
Ferguson McInnis
Filner McIntyre
Flake McKeon
Foley McNulty
Ford Meehan
Fossella Meek (FL)
Frank (MA) Meeks (NY)
Frelinghuysen Menendez
Frost Michaud
Gephardt Millender
Gilchrest McDonald
Gillmor Miller (MI)
Gonzalez Miller (NC)
Gordon Miller, George
Goss Mollohan
Granger Moore
Graves Moran (KS)
Green (TX) Moran (VA)
Green (WI) Murphy
Greenwood Murtha
Grijalva Nadler
Gutierrez Napolitano
Harman Neal (MA)
Nethercutt Walden (OR)

Neugebauer
Ney
Northup
Nunes
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascarell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Regula
Renzi
Reyes
Reynolds
Rodriguez
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda
T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sessions
Shadeegg
Shaw
Sherman
Sherwood
Simmons
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snider
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)

NOT VOTING—14

Andrews Herger Shays
Brown, Corrine Istook Tauzin
DeMint Leach Wexler
Deutsch Oberstar Young (AK)
Forbes Rangel

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS) (during the vote). There are 2 minutes remaining in this vote.

□ 1224

Mrs. JOHNSON of Connecticut, Mr. FOSSELLA, and Mr. BURNS changed their vote from “yea” to “nay.”

Messrs. WHITEFIELD, TAYLOR of North Carolina, and TANCREDO changed their vote from “nay” to “yea.”

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. CORRINE BROWN of Florida. Mr. Speaker, on rollcall Nos. 180, 181, and 182, I was unavoidably detained and unable to make the vote.

Had I been present, I would have voted: “No” on No. 180, joint rule for consideration of H.R. 2728, 2729, 2730, 2731; “No” on No. 181, tabling Miller motion to instruct conferees on overtime; “No” on No. 182, H.R. 3722, Undocumented Alien Emergency Assistance Amendments of 2004.

OCCUPATIONAL SAFETY AND HEALTH SMALL BUSINESS DAY IN COURT ACT OF 2004

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 645, I call up the bill (H.R. 2728) to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to an employer filing of a notice of contest following the issuance of a citation by the Occupational Safety and Health Administration, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. TERRY). Pursuant to House Resolution 645, the bill is considered read for amendment.

The text of H.R. 2728 is as follows:

H.R. 2728

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Occupational Safety and Health Small Business Day in Court Act of 2003”.

SEC. 2. CONTESTING CITATIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT.

(a) CITATION.—The second sentence of section 10(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 659(a)) is amended by inserting “(unless such failure results from mistake, inadvertence, surprise, or excusable neglect)” after “assessment of penalty”.